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RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC IMMEDIATE  
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RUEHJI/AMCONSUL JEDDAH IMMEDIATE 0018  
RUEHOS/AMCONSUL LAGOS IMMEDIATE  
RUEHRH/AMEMBASSY RIYADH IMMEDIATE 0018  
RUEHSA/AMEMBASSY PRETORIA IMMEDIATE 0085

C O N F I D E N T I A L SECTION 01 OF 03 ABUJA 000167

SIPDIS  
STATE FOR AF/FO, AF/W, AF/RSA, AF/PDPA, DRL, INR/AA  
AMEMBASSY YAOUNDE PASS TO AMEMBASSY MALABO

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SUBJECT: GOODLUCK JONATHAN BECOMES ACTING PRESIDENT

REF: ABUJA 0155 AND PREVIOUS

CLASSIFIED BY: James P. McAnulty, Political Counselor, U.S. Embassy  
Abuja, Political Section; REASON: 1.4(B), (D)

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SUMMARY

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¶1. (C) The Nigerian Senate and House of Representatives approved resolutions February 9 designating Vice President Goodluck Jonathan as Acting President and Commander-in-Chief of the Armed Forces. Jonathan announced his acceptance of the designation during a brief televised address to the nation. Senate President David Mark noted that legislators took the action under the "doctrine of necessity" to respond to a situation "not fully contemplated by the Constitution." The Federal Executive Council (FEC) ratified the non-binding resolutions February 10. In one of his first official actions as Acting President, Jonathan switched the portfolios of three Cabinet Ministers, relegating controversial Attorney General Michael Aondoakaa to a less powerful post. Most Nigerians, including those formerly viewed as Yar'Adua "loyalists," have accepted the designation of Jonathan as Acting President as a necessary, albeit imperfect, political decision, while a few critics have questioned its constitutionality. END SUMMARY.

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NATIONAL ASSEMBLY APPROVES RESOLUTIONS

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¶2. (SBU) On February 9, the Senate and the House of Representatives approved resolutions designating Vice President Jonathan as Acting President and Commander-in-Chief. According to the resolutions, Jonathan will retain this position until ailing President Yar'Adua, whose absence reached 78 days on that date, returns to Nigeria and communicates in writing that he is capable of resuming presidential powers. Senate President David Mark told the media that legislators took the action under the "doctrine of necessity" to respond to a situation "not contemplated" by the Constitution. Some Senators argued that the President had communicated his "vacation" and incapacity via his alleged BBC radio interview in

which he indicated that he remained in Saudi Arabia undergoing medical treatment. While at least one Senator objected that such verbal remarks did not satisfy the Constitutional requirement for a signed "written communication," others insisted that a printed online transcript of his alleged remarks sufficed.

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JONATHAN ADDRESSES THE NATION  
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¶3. (SBU) Jonathan announced his acceptance of his Acting President designation during a brief televised address on the evening of February 9. He expressed hope for the continued recovery of President Yar'Adua and indicated that he was "deeply humbled and honored by this great call to duty."

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GOVERNORS EXPRESS SUPPORT  
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¶4. (C) The Governors' Forum endorsed the National Assembly's action, noting that they had obtained the go-ahead of the leaders of national assemblies in all 36 states for such action. Separately, Plateau State Governor David Jonah Jang told PolCouns February 10 that the governors would have pressed National Assembly members to consider and approve such resolutions if they had not acted as soon as they did. He predicted that the National Assembly and state legislatures would soon approve a constitutional amendment stipulating that the Vice President and Deputy Governors, respectively, assume their boss's position as Acting President or Acting Governor automatically when such absences exceed 30 days. (COMMENT: Nigeria's 1999 Constitution has never undergone amendment, because of the nearly impossible requirement that two-thirds of the state legislatures ratify the amendment. END COMMENT.)

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FEC RATIFIES DESIGNATION  
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¶5. (C) The Federal Executive Council (FEC) accepted the National Assembly's action during a February 10 meeting. At the start of the meeting, Jonathan sat in the elevated President's chair, instead of his Vice Presidential chair, for the first time. While the FEC had originally scheduled a discussion of the memorandum that Information Minister Dora Akunyili had circulated (and withdrawn) the previous week recommending that Yar'Adua submit a hand over letter, Akunyili announced after the meeting that the National Assembly's actions had obviated the need for discussion of her document.

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SUPPORT FOR DECISION -- EVEN FROM SOME YAR'ADUA LOYALISTS  
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¶16. (C) House of Representatives Narcotics and Financial Crimes Committee Chairperson Rabe Nasir told PolOff February 12 that the National Assembly did what it could to break through the "political quagmire." While Nasir mentioned that some House members objected to mentioning the term "Acting President" on constitutional grounds, members of the Katsina delegation "did not have any objections whatsoever" to the resolution. In no way, he added, did they consider the resolution disloyal to native son Yar'Adua. Nasir observed that, after its passage, a delegation of governors, including Katsina Governor Ibrahim Shema (Yar'adua's handpicked successor as governor), visited the Assembly to congratulate members on the resolution's approval.

¶17. (C) Kwara Senator Gbemisola R. Saraki, whose brother Kwara Governor Bukola Saraki chairs the Governors' Forum and whose family could be described as Yar'Adua "loyalists of convenience," admitted that the resolution was unconstitutional. Saraki openly wondered "What alternative did we have?" She noted that the FEC members did not do anything. Insisting that the resolution "was not meant to be disloyal," she averred that the National Assembly had no choice after Yar'Adua's nearly 80-day absence. She wondered whether anyone could imagine the U.S. First Lady "blocking the door to her husband's room and not letting any government officials in for that long."

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¶18. (C) Senator Kanti Bello, a close Yar'Adua ally also from Katsina State, remarked to Political Specialist February 12 that, although he was close to Yar'Adua, the leadership crisis arising from his illness had "created a vacuum that must be addressed in a legal, fair, and patriotic manner." He described the resolution empowering Jonathan as Acting President as the best way "to confront the leadership crisis threatening to destabilize Nigeria."

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CABINET SHUFFLE  
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¶19. (SBU) Towards the end of the February 10 FEC meeting, Akunyili announced Jonathan's decision to shuffle the portfolios of the Attorney General, Labor Minister, and Special Duties Minister, with immediate effect, relegating controversial Attorney General Aondoakaa to the obscure post of Special Duties Minister. He replaced Aondoakaa with Labor Minister Adetokunbo Kayode, while former Special Duties Minister Ibrahim Musa Kazaure became Labor Minister. Aondoakaa publicly accepted his reassignment, claiming that Jonathan and he had amicably discussed the change beforehand. At least one press report, however, described such remarks as spin, insisting that the decision had come as a shock to Aondoakaa and other ministers during the meeting.

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COMMENT  
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¶10. (C) Jonathan's belated elevation to Acting President has defused but not resolved the crisis over Yar'Adua's absence. The next few months will be critical. Jonathan has probably a short window during to demonstrate leadership and competence to build up his credibility, his position within his own party, and his

prospects for 2011 should he, as many expect, decide to contest for a new term. He also needs a good start to help him withstand the likely court challenges, once his political honeymoon fades, arguing that his "acting" status or some particular action by Jonathan is unconstitutional. For that reason, it is not academic if an unambiguous medical leave statement is subsequently obtained from Yar'Adua. Ultimately, absent Yar'Adua's death, the FEC could also proceed with appointing the medical panel to document Yar'Adua's incapacity or the National Assembly could even proceed with impeachment.

¶11. (C) Jonathan has the advantage of starting off with low expectations and a broad national appreciation for his role in moving the country forward. Removing the widely disdained Attorney General sent a strong, positive signal, while fueling rumors about the pending sacking of other Yar'Adua loyalists such as Federal Capital Territory Minister Muhammed Adamu Aliero. Observers will also be watching closely for signs that Jonathan's mentor, former President Olusegun Obasanjo, is exercising significant influence.  
END COMMENT.  
SANDERS